

DEPARTMENT OF JUSTICE

TAX DIVISION

DIRECTIVE NO. ____

May , 1990

Re: Memoranda Authorizing Issuance of Refunds Pursuant
to Compromise or Government Concession (Form M-4457)

Under current procedures, Tax Division attorneys prepare the payment authorization memoranda (Form M-4457) which authorize the issuance of refunds arising from a compromise or Government concession in cases in which the amount of the refund is known at the time the settlement offer is accepted or the Government concession is approved. These payment authorization memoranda are currently transmitted to District Counsel or Chief Counsel, and then by District Counsel or Chief Counsel to the Service Center (District Director in 100% penalty cases). This procedure is to continue with one modification.* Effective immediately, payment authorization memoranda are to be sent directly to the Service Center (District Director in 100% penalty cases by the Tax Division, with a copy of the payment authorization memorandum being sent to District Counsel or Chief Counsel. Copies of revised form letters to District Counsel or Chief Counsel advising of the acceptance of an offer or the approval of a concession are attached as Attachments 1 and 2.

Instructions for the preparation of Form M-4457 are as follows:

- (1) The name of the attorney preparing the form should be set forth in the upper left hand corner.
- (2) The date the form is sent should be set forth on the "date" line.
- (3) Except in 100% penalty cases, the memorandum should be addressed to the appropriate Service Center. Attachment 3 sets forth the states, territories and possessions served by each Service Center, and Attachment 4 sets forth the addresses of the Service Centers. In 100% penalty cases, the memorandum should be addressed to the appropriate District Director, who is usually the one that sent the original administrative file. The memorandum should be addressed: District Director, Internal Revenue Service, [city and state], Attention: Chief, Special Procedures.

*The attorneys in the offices of District Counsel or Chief Counsel will continue to prepare the payment authorization memoranda (1) in cases in which the Tax Division authorizes Chief Counsel or District Counsel to issue a refund of such amount as the Internal Revenue Service computes to be due under a compromise or a concession and (2) with respect to refunds due pursuant to judgments.

(4) The "from" line should set forth the name of the section or office chief and title.

(5) The "subject" line should set forth the name of the taxpayer and social security number or employer identification number.

(6) On the line below the "subject" line, a capital "X" should be placed in the appropriate box (i.e., "settlement," or "Government concession").

(7) The amount of the refund authorized, allocated among tax, penalty and interest and by taxable periods, should be set forth in the space between the "subject" line and the first printed paragraph. If the allocation by taxable periods is too voluminous to be set forth in the space provided on the form, the allocation should be set forth on a separate schedule to be attached to the form and the following language should be set forth on the form:

Amount of refund authorized: \$_____ in tax, \$_____ in penalty and \$_____ in interest paid, plus statutory interest, for the taxable periods _____ as set forth in the attached schedule.

A sample schedule is attached as Attachment 5. If the refund is to bear statutory interest, the words "plus statutory interest" should be added after the amount of the refund. If statutory interest is not to be computed under the normal rules, or the refund is not to bear statutory interest, this information should be set forth after the amount of the refund.

(8) If an abatement of an outstanding assessment is necessary under the compromise or concession, the Service Center or District Director should be so instructed on the line below the amount of the refund authorized. Generally, in cases involving 100% penalty, language such as "abate balance of 100% penalty assessment" will be sufficient. In all other cases, the specific amount to be abated must be set forth on the form; generally, it will be necessary to obtain a current transcript of account to determine the amount to be abated.

(9) In the case of refunds pursuant to compromise, the following paragraph should be set forth below the printed sentence "The notice of adjustment should contain the following statement":

This notice of adjustment is issued pursuant to directions from the Department of Justice relative to [type of tax] [,penalty] [and] [interest paid] for [the periods in suit]. [If estate tax, omit the period in suit in the preceding sentence and state "Decedent died on _____."] Payment of the sum mentioned herein is made and accepted in accordance with the terms of a settlement agreement whereby the case of [name of plaintiff] v. United States, [name of court], [civil number in a district court case or Claims Court number in a Claims Court case], filed _____, is to be dismissed with prejudice.

(10) In the case of refunds pursuant to Government concession, the following paragraph should be set forth below the printed sentence "The notice of adjustment should contain the following statement":

This notice of adjustment is issued pursuant to directions from the Department of Justice relative to [type of tax] [,penalty] [and] [interest paid] for [the periods in suit]. [If estate tax, omit the period in suit in the preceding sentence and state "Decedent died on _____."] Payment of the sum mentioned herein is made and accepted pursuant to a Government concession in the case of [name of plaintiff] v. United States, [name of court], [civil number in a district court case or Claims Court number in a Claims Court case], filed _____.

(11) A signature block consisting of the name of the section or office chief and title should be set forth below the last printed paragraph.

(12) The enclosure boxes on the bottom of the form should be marked with a capital "X" as appropriate and the dates set forth. It is no longer necessary to attach a transcript of account to the form. The Service Center or Special Procedures will obtain a current transcript of account. Attach a copy of the letter to Chief Counsel or District Counsel.

(13) If a compromise or concession involves more than one case not involving the same taxpayer, or one case involving multiple taxpayers, a separate Form M-4457 must be completed for each taxpayer.

A copy of a blank Form M-4457 to be used for compromises is attached as Attachment 6, and a copy of a blank Form M-4457 to be used for Government concessions is attached as Attachment 7. Sample completed forms are attached as Attachments 8 and 9. Blank forms are available in each section/office front office.

If you have any questions concerning the preparation of Form M-4457, please contact Milan Karlan (724-6567).

(Name of Incumbent)
Assistant Attorney General
Tax Division

States within Service Centers

Florida, Georgia, South Carolina	Atlanta, GA 39901
New Jersey, New York (New York City and counties of Nassau, Rockland, Suffolk, and Westchester)	Holttsville, NY 00501
New York (all other counties), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Andover, MA 05501
Illinois, Iowa, Minnesota, Missouri, Wisconsin	Kansas City, MO 64999
Delaware, District of Columbia, Maryland, Pennsylvania, Virginia	Philadelphia, PA 19255
Indiana, Kentucky, Michigan, Ohio, West Virginia	Cincinnati, OH 45999
Kansas, New Mexico, Oklahoma, Texas	Austin, TX 73301
Alaska, Arizona, California (counties of Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba), Colorado, Idaho, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	Ogden, UT 84201
California (all other counties), Hawaii	Fresno, CA 93888
Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Tennessee	Memphis, TN 37501

Territories and Possessions within Service Centers

Puerto Rico, Virgin Islands,
Canal Zone Philadelphia, PA

Guam Atlanta, GA

Addresses of Service Centers To Be Used in Payment Memoranda Only

(September 12, 1996)

Director, Andover Service Center
P.O. Box 4053
Woburn, Massachusetts 01888
Attn: Technical Unit, Stop 661
Susan Boos--508-474-9875

fax: 508-474-9601

Director, Atlanta Service Center
P.O. Box 47601
Doraville, Georgia 30362-1549
Attn: Technical Unit, Stop 35
Charlotte Eberhart--770-455-2730
Teresa Cagle--770-455-2730

fax: 770-454-1789

Director, Austin Service Center
P.O. Box 934, Austin, Texas 78767
Attn: Technical Unit, Stop 6813 AUSC
Corine Swenson--512-460-2795

Austin Compliance
fax: 512-460-0712

fax: 512-416-4295

Director, Brookhaven Service Center
P.O. Box 777, Holtsville, NY 11742
Attn: Lead Tax Examiner
Technical Unit, Stop 531
Audrey Lutz--516-654-6068 or 6434

fax: 516-447-4908

Brookhaven street address (for Fed. Express)
1040 Waverly Avenue
Holtsville, New York 11742

Director, Cincinnati Service Center
P.O. Box 12267
Covington, Kentucky 41012-0267
Attn: Technical Unit, PRP, Stop 537
Gerri Bomkamp--606-292-5769

fax: 606-292-5018

Director, Fresno Service Center
P.O. Box 12606
Fresno, California 93778
Attn: Technical Unit, Stop 5348
Glenna Ryan--209-454-6332

fax: 209-454-7325

Director, Kansas City Service Center
P.O. Box 24551
Kansas City, Missouri 64131
Attn: Technical Unit, Stop 6800, Annex 9
Nancy Best--816-926-5661

fax: 816-926-1280

Director, Memphis Service Center
P.O. Box 30309 AMF
Memphis, Tennessee 38130
Attn: Chief, Adjustment Correspondence Branch
Stop 48
Carole Ward--901-365-5409
Sandra Thomas--(901) 546-4409

fax: 901-365-5026

Director, Ogden Service Center
P.O. Box 9941, Ogden, Utah 84409
Attn: Technical Unit, Stop 6743
Denise Beck--801-620-7267

fax: 801-620-7300

Director, Philadelphia Service Center
P.O. Box 6073
Philadelphia, Pennsylvania 19114
Attn: Technical Unit, DP 537A
Shirley Poulson--215-516-2170

fax 215-969-2173

This listing supersedes, the listing in Attachment 4 of Tax Division Directive No. 85 (May 1990)

Amount of Refund Authorized

(Name of taxpayer) _____ (SSN or EIN) _____

Taxable Periods

Tax

Penalties

Interest
Paid

Total

Total

Date _____

(name of attorney
preparing the schedule)

Attachment 5

[Name of Attorney]

date:

to: [Service Center] [District Director]

from: [Name of Chief] Chief, [Section or Office]

subject: (name of taxpayer) _____ (SSN or EIN) _____

Refund pursuant to: X settlement Government concession

Amount of refund authorized:

In the case described below, instituted by taxpayer to recover refund of certain tax liabilities, a refund or credit has been authorized on behalf of the Attorney General. Subject to the provisions of Section 6402 of the Internal Revenue Code, you are authorized to issue a refund of the amounts of tax, interest, or penalties, if any, shown above or on the computation as refundable pursuant to the terms of the settlement.

Under the provisions of section 6402 of the Internal Revenue Code, any overpayment may be credited against any other tax liability of the person who made the overpayment. Please send the refund check or notice of credit to the Assistant Attorney General, Tax Division, Department of Justice, Ben Franklin Station, P.O. Box 813, Washington, D.C. 20044.

The notice of adjustment should contain the following statement:

This notice of adjustment is issued pursuant to directions from the Department of Justice relative to [_____ tax] [, penalty] [and] [interest paid] for (the periods in suit) _____. [Decedent died on _____.] Payment of the sum mentioned herein is made and accepted in accordance with the terms of a settlement agreement whereby the case of _____ v. United States, (name of court) _____, (number) _____, filed _____ is to be dismissed with prejudice.

Please forward to the Assistant Attorney General, Tax Division, Department of Justice, Ben Franklin Station, P.O. Box 813, Washington, D.C. 20044, and [District Counsel, Internal Revenue Service], (city) _____, (state) _____] [Chief Counsel, Internal Revenue Service, Attention: CC:TL], three copies each of the completed Notice of Adjustment noting the date of issuance of the refund check or notice of credit, and three copies each of the statutory interest computation.

[Name of Chief]
[Chief, [Section or Office]
Tax Division

Enclosures:

___ Computation dated _____ 1 copy
___ DJ letter dated _____ 1 copy
___ Schedule dated _____ 1 copy

FORM M-4457 (Rev. 4-90)

Attachment 6

[Name of Attorney]

date:

to: [Service Center] [District Director]

from: [Name of Chief] Chief, [Section or Office]

subject: (name of taxpayer) _____ (SSN or EIN) _____

Refund pursuant to: ____ settlement X Government concession

Amount of refund authorized:

In the case described below, instituted by taxpayer to recover refund of certain tax liabilities, a refund or credit has been authorized on behalf of the Attorney General. Subject to the provisions of Section 6402 of the Internal Revenue Code, you are authorized to issue a refund of the amounts of tax, interest, or penalties, if any, shown above or on the computation as refundable pursuant to the Government concession.

Under the provisions of section 6402 of the Internal Revenue Code, any overpayment may be credited against any other tax liability of the person who made the overpayment. Please send the refund check or notice of credit to the Assistant Attorney General, Tax Division, Department of Justice, Ben Franklin Station, P.O. Box 813, Washington, D.C. 20044.

The notice of adjustment should contain the following statement:

This notice of adjustment is issued pursuant to directions from the Department of Justice relative to [_____ tax] [, penalty] [and] [interest paid] for (the periods in suit) _____. [Decedent died on _____.] Payment of the sum mentioned herein is made and accepted pursuant to a Government concession in the case of _____ v. United States, (name of court) _____, (number) _____, filed _____.

Please forward to the Assistant Attorney General, Tax Division, Department of Justice, Ben Franklin Station, P.O. Box 813, Washington, D.C. 20044, and [District Counsel, Internal Revenue Service], (city) _____, (state) _____] [Chief Counsel, Internal Revenue Service, Attention: CC:TL], three copies each of the completed Notice of Adjustment noting the date of issuance of the refund check or notice of credit, and three copies each of the statutory interest computation.

[Name of Chief]
[Chief, [Section or Office]
Tax Division

Enclosures:

____ Computation dated _____ 1 copy
____ DJ letter dated _____ 1 copy
____ Schedule dated _____ 1 copy

FORM M-4457 (Rev. 4-90)

Attachment 7

Milan D. Karlan

date: April 15, 1990

to: Kansas City Service Center
P.O. Box 24551 Kansas City
Missouri 64131
Attn: Technical Unit, Stop 53
Lou Carter

from: Milan D. Karlan Chief, Office of Review

subject: John Doe 123-45-6789

Refund pursuant to: X settlement ____ Government concession

Amount of refund authorized: \$10,000 in income tax and \$2,000 in interest paid for 1981 and \$20,000 in income tax and \$3,500 in interest paid for 1982, plus statutory interest.

In the case described below, instituted by taxpayer to recover refund of certain tax liabilities, a refund or credit has been authorized on behalf of the Attorney General. Subject to the provisions of Section 6402 of the Internal Revenue Code, you are authorized to issue a refund of the amounts of tax, interest, or penalties, if any, shown above or on the computation as refundable pursuant to the terms of the settlement.

Under the provisions of section 6402 of the Internal Revenue Code, any overpayment may be credited against any other tax liability of the person who made the overpayment. Please send the refund check or notice of credit to the Assistant Attorney General, Tax Division, Department of Justice, Ben Franklin Station, P.O. Box 813, Washington, D.C. 20044.

The notice of adjustment should contain the following statement:

This notice of adjustment is issued pursuant to directions from the Department of Justice relative to income tax and interest paid for 1981 and 1982. Payment of the sum mentioned herein is made and accepted in accordance with the terms of a settlement agreement whereby the case of John Doe v. United States, United States District Court for the Southern District of Illinois, Civil No. 88-1234, filed January 30, 1988, is to be dismissed with prejudice.

Please forward to the Assistant Attorney General, Tax Division, Department of Justice, Ben Franklin Station, P.O. Box 813, Washington, D.C. 20044, and District Counsel, Internal Revenue Service, St. Louis, Missouri, three copies each of the completed Notice of Adjustment noting the date of issuance of the refund check or notice of credit, and three copies each of the statutory interest computation.

Milan D. Karlan
Chief, Office of Review
Tax Division

Enclosures:

X Computation dated 3-19-90 1 copy
X DJ letter dated 4-15-90 1 copy
____ Schedule dated _____ 1 copy

FORM M-4457 (Rev. 4-90)

Attachment 8

Milan D. Karlan

date: April 15, 1990

to: District Director Internal Revenue Service
P.O. Box 99181
Cleveland, Ohio 44199
Attention: Chief, Special Procedures

from: Milan D. Karlan Chief, Office of Review

subject: John Doe 123-45-6789

Refund pursuant to: ___ settlement X Government concession

Amount of refund authorized: \$400 in 100% penalty with respect to XYZ Corporation for the second and third quarters of 1984. Abate balance of 100% penalty assessment against John Doe.

In the case described below, instituted by taxpayer to recover refund of certain tax liabilities, a refund or credit has been authorized on behalf of the Attorney General. Subject to the provisions of Section 6402 of the Internal Revenue Code, you are authorized to issue a refund of the amounts of tax, interest, or penalties, if any, shown above or on the computation as refundable pursuant to the Government concession.

Under the provisions of section 6402 of the Internal Revenue Code, any overpayment may be credited against any other tax liability of the person who made the overpayment. Please send the refund check or notice of credit to the Assistant Attorney General, Tax Division, Department of Justice, Ben Franklin Station, P.O. Box 813, Washington, D.C. 20044.

The notice of adjustment should contain the following statement:

This notice of adjustment is issued pursuant to directions from the Department of Justice relative to 100% penalty for the second and third quarters of 1984. Payment of the sum mentioned herein is made and accepted pursuant to a Government concession in the case of John Doe v. United States, United States Claims Court, Cl. Ct. No. 144-88T, filed January 15, 1988.

Please forward to the Assistant Attorney General, Tax Division, Department of Justice, Ben Franklin Station, P.O. Box 813, Washington, D.C. 20044, and Chief Counsel, Internal Revenue Service, Attention: CC:TL, three copies each of the completed Notice of Adjustment noting the date of issuance of the refund check or notice of credit, and three copies each of the statutory interest computation.

Milan D. Karlan
Chief, Office of Review
Tax Division

Enclosures:

___ Computation dated _____ 1 copy
X DJ letter dated 4-15-90 1 copy
___ Schedule dated _____ 1 copy

FORM M-4457 (Rev. 4-90)

Attachment 9